

**IN THE UNITED STATES DISTRICT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA

v.

MICHAEL REYES

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NO. EP-21-CR-00053-DB

**MOTION FOR APPOINTMENT OF DEFENSE EXPERT FOR
EXAMINATION OF DEFENDANT TO DETERMINE COMPETENCY**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW, Robert J. Perez, Attorney for the Defendant in the above styled and numbered cause, and states to the Court that he has reason to believe that Defendant may presently be suffering from a mental disease or defect, or otherwise be mentally incompetent as to be unable to properly assist in his own defense. Defendant may be suffering from a mental defect or conditions that prevents him from properly recalling the events that gave rise to this case. Accessing those memories may require an expert to assist counsel in making a proper evaluation for purposes of competency and perhaps insanity. Counsel does not have the expertise to determine Defendant's mental state. Based on conversations with the Defendant, and evidence in discovery, Counsel has reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering Defendant incompetent in that he is unable to properly assist in his defense.

Defendant is of limited financial means and will make his best efforts to employ an expert to examine her and to testify as to his mental condition. Without such examination, Defendant will be unable to adequately prepare her defense. Counsel requests, under 18 U.S.C. § 4241, the Court order that Defendant be examined by a qualified doctor of psychiatry and/or

psychology appointed by the Court. Counsel at this time is requesting that an expert be appointed for defense purposes only at this time. At this time counsel cannot unequivocally form an opinion with respect to competency and thus respectfully requests a psychiatric expert be appointed for defense purposes and to give counsel an opinion as to competency and or mental illness.

In support of this Motion Counsel offers and would show the following. Defense Counsel has met with Defendant on numerous occasions. Counsel's observations are that Defendant has been attentive, asked intelligent questions and understands that there are proceedings against him. However, Defendant cannot recall events surrounding his actions that gave rise to this offense. However, in the conversations, it is apparent that there may be issues regarding a mental illness or condition that prevents Defendant from recalling events and which thus prevents him from properly being able to assist in his defense. These are matters which can more properly be evaluated by a professional.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that this motion be granted and that Defendant be examined by a qualified psychiatrist and/or psychologist to determine if he is presently mentally incompetent as to be unable to understand the proceedings against him or to assist properly in his own defense pursuant to 18 U.S.C. § 4241, and for issues of mitigation and or possible insanity.

Respectfully submitted,

/s/

ROBERT J. PEREZ
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Defense Counsel

Certificate of Service

I certify that a true and correct copy of the above Motion was served upon opposing counsel, United States Attorney's Office by CM/ECF transmission, in accordance with the Federal Rules of Criminal Procedure on March 26, 2021.

/s/

ROBERT J. PEREZ

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ORDER FOR MENTAL EXAMINATION

On this day the Court considered the Motion for “Motion for Mental Examination of Defendant to Determine Competency” filed in this case on March 26, 2021. Defendant’s Counsel urges the Court order an examination to determine whether pursuant to 18 U.S.C. § 4241, Defendant is mentally incompetent as to be unable to understand the proceedings against her or to assist properly in his own defense.

The Court, having considered said motion as well as any response thereto filed by the United States Attorney, is of the opinion that said motion should be GRANTED. Additionally, the Court finds that the interest of justice outweighs the interest of Defendant in a public speedy trial, and that Defendant’s Counsel’s has presented sufficient grounds for the need to conduct a psychiatric/psychological evaluation of Defendant.

Hence, the Court Finds that the time from the filing of the above referenced Motion, through the date a judicial determination is made in light of the written psychiatric evaluation, is excludable within the meaning of the Speedy Trial Act, 18 U.S.C. §§ 3161 *et. seq.*

It is therefore ORDERED that the Defendant be examined under the provisions of 18 U.S.C. § 4241 by a physician yet to be named but who is a psychologist or psychiatrist qualified to render an opinion as to competency. Said physician shall be required to establish the following specific findings to be set forth in writing (Report):

- (1) Whether or not the Defendant is presently suffering from a psychosis or mental disease or defect;
- (2) Whether or not the Defendant p presently has a rational, as well as factual, understanding of the proceedings against him;
- (3) Whether or not the Defendant presently has sufficient ability to consult with his attorney and to assist in his own defense with a reasonable degree of rational understanding;
- (4) Whether or not at the time of the alleged offense, the Defendant was suffering from a mental disease or defect which prevents his recollection of events.

IT IS FURTHER ORDERED that said written report be filed with the Clerk of this Court who will stamp it "Received." After making the necessary docket entries, the Clerk will deliver the original report to this Court and will distribute copies of same to the United States Attorney, Defense Counsel, and to the United States Probation Office.

A certified copy of this Order shall be furnished by the Clerk of this Court.

SIGNED AND ENTERED this _____ day of _____, 2021.

HONORABLE DAVID BRIONES
UNITED STATES DISTRICT JUDGE